

Regulations, Legislation, and Interpretation Division
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210

Subject: Proposed Rule to Phase Out Section 14(c) Certificates (RIN: 1235-AA14)

Dear Sir or Madam,

This letter is to endorse the Department of Labor's proposed rule to eliminate Section 14(c) certificates under the Fair Labor Standards Act. This proposal entails a significant step towards equal remuneration and chances for promotions for individuals with disabilities.

Section 14(c) has enabled employers to pay wages less than the minimum wages required by law to employees with disabilities for many years, in the name of efficiency. Although the provision was initially intended to support the employment of employees with disabilities, it has contributed to recurrent unequal economic and social treatment of persons with disabilities. Disabled individuals should be given the same rights as any other worker who is not disabled, and this include right to a fair and decent wage.

The vast majority, if not all, of the employers holding Section 14(c) certificates in Indiana are either classified as Community Rehabilitation Programs or Hospital/Patient Worker organizations. These organizations provide important services to support the Employment and Independence for People with Disabilities (EIPD), many of whom have very special needs. While the goals of such programs may align with the advancement of job opportunities, the continued use of Section 14(c) certificates raises significant concerns regarding equal treatment and equal pay for workers with disabilities.

As a person with a disability and someone who is deeply committed to integrity and economic equity, I believe that it is nothing short of essential that we move beyond these outdated policies. It is time for us to focus our efforts on policies that open access for employees with disabilities by advancing competitive, integrated employment. We must realize that most people in our community have little choice but to enter/re-enter the workforce due to the costs of living and health care, in order for them to survive.

The proposed phase-out by the Department to end the grant of new certificates and provide three years for current certificate holders is timely and reasonable. It is somewhat in-between the need for reforms and the concrete circumstances of employers and employees as they transition from a subminimum wage regime. However, several factors must be addressed to ensure a smooth and equitable transition:

1. **Invest in Training and Support for Workers with Disabilities:** Provide support services for workers with disabilities so they can successfully seek and gain full-time, integrated employment if provided with necessities such as job training, specific workplace modifications, and reasonable accommodations, such as access to assistive technology.
2. **Employer Support:** Employers no longer receiving 14(c) certificates will need opportunities to acquire knowledge on federal and state laws, incentives, and grants as well as technical assistance.
3. **Enforcement and Monitoring:** The Department must ensure that offsite workers with disabilities cannot be exploited during or after the transitional period through stringent measures. Routine checks with necessary reports filed will assist in preventing violations of fair wage practices.
4. **Stakeholder Collaboration:** It is also important to involve employees with disabilities, disability support organizations, and all employers to ensure that all the stakeholders involved benefit from the transition.

Over the years, considerable strides have been made by the United States toward disability rights, considering laws like the Americans with Disabilities Act (ADA). The next step is to end subminimum wages and truly fulfill the promise of equality and inclusion of the ADA.

For that reason, I appreciate the Department of Labor for developing this regulation. Removing Section 14(c) certificates is a major step towards building better jobs for persons with disabilities in a more integrated world. I encourage the department to move forward on this rulemaking and to provide the supports needed for this process.

Thank you for considering my comments.

Sincerely,

Roshawn Neal
Policy Fellow
Indiana Community Action for Poverty Institute